

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5487 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

DOLAT HARIMAL SINDHI

Versus

JAIL SUPERINTENDENT

Appearance:

Ms.Bunna Dutta for the petitioner (appointed by the Court by order dated 30-7-96)

Mr. Nigam Shukla, learned Asst.G.P. for the respondents.

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 05/11/96

ORAL JUDGMENT :

1. The papers available on the record show that this petition has been entertained on the basis of a letter received through Superintendent of District Jail, Surat against the detention order dated 30-4-96 passed by District Magistrate, Jamnagar. The petitioner is

suffering the detention at District Jail, Surat.

2. On 30-7-96 Rule returnable on 16-8-96 was issued by this Court. So far neither any reply has been filed on behalf of the respondents nor any affidavit of the detaining authority has been filed.

3, The grounds enclosed with the detention order show that 3 criminal cases under the Bombay Prohibition Act were registered against the petitioner on 3-6-94, 9-9-95 and 19-2-96. Besides these cases, the detaining authority has also considered the statements made by 4 witnesses against the petitioner's anti social and criminal activities. The detaining authority has also found that the petitioner was engaged in unauthorised business of possession and sale of the country liquor and he has been beating innocent persons, has created an atmosphere of terror and insecurity, has been pressurising innocent persons to associate with him in the unauthorised business, has been forcing the traders to give commodities free of charge, has also been extorting money from the traders, has been misbehaving with the ladies and has been giving threat to those who oppose his activities, as aforesaid. The detaining authority has found that the petitioner is a bootlegger and it was necessary to detain him under the Act so as to prevent him from continuing with his anti social activities. Accordingly the detention order was passed.

4. The learned counsel for the petitioner has submitted that the allegations and materials relied upon by the detaining authority against the petitioner, even if taken to be true on its face value, do not constitute a case of breach of public order and at the most it is a case of breach of law and order.

5. This argument of the learned counsel for the petitioner is fully covered by the decision of this Court rendered on 4-10-96 in Special Civil Application No.3879/96. The impugned detention order appears to have been passed on the ground of breach of law and order and not on the ground of breach of public order. Hence the detention order can not be sustained in the eye of law.

6. Accordingly the Special Civil Application is allowed and the impugned detention order dated 30-4-96 passed by the District Magistrate, Jamnagar is hereby quashed and set aside and the petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner and set him at liberty forthwith, if not required in any other case. Rule is made

absolute.

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